

NEATH PORT TALBOT COUNTY BOROUGH COUNCIL

Environment and Highways Cabinet Board

16 February 2017

Report of the Head of Planning & Public Protection

N. Pearce

Matter for Decision

Wards Affected: All Wards

Trading Standards – Constitutional Change

Purpose of Report

1. To request that Members authorise the amendment of the Neath Port Talbot Constitution to permit the Environmental Health & Trading Standards Manager, the Trading Standards Team Leader and or the Senior Investigation Officer of the Trading Standards team to authorise competent Officers to institute proceedings when alleged offenders are held in custody.

Executive Summary

2. The Neath Port Talbot Constitution lists the legislation that is currently enforced by the Trading Standards functions of the Authority
3. On page 3.127 of the current Constitution the Environmental Health & Trading Standards Manager (under its former title of Principal Officer Environmental Health & Trading Standards) is included as an Officer delegated to institute legal proceedings in conjunction with the Head of Legal and Democratic Services, to include the signing of any cautions in accordance with Home Office Guidelines, and where an alleged offender is being held in custody in relation to an offence, to institute proceedings by way of charge.
4. When alleged offenders are being held in custody the appropriate Officers from the Trading Standards team in attendance are Trading Standards Officers or Enforcement Officers. For practical purposes it would be beneficial if these Officers could be authorised to charge alleged offenders and this proposal would allow that following

authorisation from either the Environmental Health & Trading Standards Manager, the Trading Standards Team Leader or in either's absence the Senior Investigation Officer for the Trading Standards team, who both in turn would have satisfied themselves upon consideration of the facts. These Officers will only utilise this power when they are entirely satisfied that the circumstances warrant charge and that the evidence is sufficient to do so.

5. As such occasions are likely to fall outside of normal working hours then the current requirement to consult with Legal Services Officers prior to charge is removed for this particular scenario only, as access to such Officers is likely to be not possible at such times.

Proposed Decision

6. That the Neath Port Talbot Constitution be amended to add a further paragraph under paragraph 3, headed (c) Environmental Health and Trading Standards on page 3.127 to read as follows:-
 - “Specifically in relation to the charging of alleged offenders being held in custody, the Environmental Health & Trading Standards Manager, Trading Standards Team Leader and or the Senior Investigation Officer of the Trading Standards Service may authorise competent Officers of the Trading Standards team to charge, following a review of the facts. This power will only be invoked when either of these named Senior Officer’s feels that it is appropriate and in the public interest to do so and having satisfied themselves that the evidence is sufficient to do so.”
7. Additionally that the Senior Investigation Officer of the Trading Standards Service be also authorised to charge on behalf of the authority when that Officer is satisfied that it is in the public interest to do so and that sufficient evidence exists to warrant such action.

Reason for Proposed Decision

8. This change will deliver a practical solution for charging alleged offenders being held in custody, but it will also ensure that the interests of the authority are protected by requiring that charging will only be undertaken by competent officers who have been authorised to do so following a review of the facts by a Senior Officer.

Financial Impact

9. None

Equality Impact Assessment

10. A Screening Assessment has been undertaken to assist the Council in discharging its Public Sector Equality Duty under the Equality Act 2010. After completing the assessment it has been determined that this proposal does not require an Equalities Impact Assessment

Workforce Impact

11. This may have a small impact on the Trading Standards team in respect of ensuring availability of supervisors and managers for the purpose of charging out of office hours.

Legal Impact

12. None

Risk Management

13. None

Any Other Impacts

14. None

Consultation

15. There is no requirement under the Constitution for external consultation on this item.

Recommendation(s).

16. That the constitution is amended to permit the Environmental Health & Trading Standards Manager, the Trading Standards Team Leader and or the Senior Investigation Officer of the Trading Standards team to authorise competent Officers to institute proceedings when alleged offenders are held in custody.

Reason for Proposed Decision(s)

17. To ensure that the Constitution permits the Trading Standards Team Leader and or the Senior Investigation Officer of the Trading Standards to expedite the investigation of alleged offenders of certain trading standards legislation, the addresses of the subjects of these investigations (counterfeiters, cowboy builders, market traders) can be difficult to confirm and serving summonses can be fraught with difficulty.

Implementation of Decision

18. The decision is proposed for implementation after the three day call in period.

Appendices

19. None

List of Background Papers

20. None

Officer Contact

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